

BY MR. Williams

NO. 31081-11

AN ORDINANCE

Amending Sections 137.14, 137.15, 137.16, 137.17, 137.19,
and 137.20 of the Revised Code of General Ordinances Relating
to Soliciting.

WHEREAS, Aggressive soliciting obstructs pedestrian and vehicular traffic and intimidates pedestrians and motorists, and results in the loss of access to and enjoyment of public places; and

WHEREAS, Aggressive soliciting leads to an interference with the free flow of vehicular traffic and raises traffic safety and traffic congestion concerns thereby denying the free flow of pedestrian and vehicular traffic on streets and sidewalks, hindering tourism and business and otherwise detrimentally impacting the quality of urban life; and

WHEREAS, Public safety requires the imposition of reasonable manner and place restrictions on solicitation, while respecting the constitutional right of free speech for all citizens; now, therefore,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That Sections 137.14, 137.15, 137.16, 137.17, 137.19, and 137.20 of the Revised Code of General Ordinances be, and the same hereby are, amended to read as follows, respectively:

Sec. 137.14. Definitions.

(A) "Solicit," for the purposes of this chapter, shall include, without limitation, the spoken, written, or printed word or such other acts or bodily gestures as are conducted in furtherance of the purposes of immediately obtaining money or any other thing of value.

(B) "Right-of-Way", as used in this chapter shall have the same meaning as in O.R.C., Section 4511.01(UU).

Sec. 137.15. Time of soliciting.

No person shall solicit after sunset or before sunrise. The times of sunset and of sunrise shall be as published by the United States Naval Observatory.

Sec. 137.16. Place of soliciting.

No person shall solicit a person in any of the following places:

- (A) At any bus stop;
- (B) In any public transportation vehicle or facility;
- (C) In any vehicle within the right-of-way;
- (D) Within twenty (20) feet of any entrance or exit of any bank, savings and loan association, credit union, or check cashing business during its business hours or within twenty (20) feet of any automated teller machine during the time it is available for customer's use;
- (E) In or at any sports stadium owned or operated by a political subdivision;
- (F) In or at any hall or theater owned or operated by a political subdivision;
- (G) In or at the Dayton Aviation Heritage National Historical Park;
- (H) In or at the National Afro-American Museum and Cultural Center;
- (I) On private property, unless the solicitor has permission from the owner or occupant.

Sec. 137.17. Manner of soliciting.

No person shall solicit in any of the following manners:

- (A) By coming within three (3) feet of the person solicited after that person has indicated that he does not wish to make a donation;
- (B) By blocking the path of a person who attempts to walk or drive away from the solicitor;
- (C) By following a person who walks away from the solicitor;
- (D) By making unreasonable noise or offensively coarse utterance, gesture, or display or communicating unwarranted or grossly abusive language, either during the solicitation or following a refusal;
- (E) By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.

Sec. 137.19. Causing a minor to solicit.

No parent, guardian, or adult person having legal care, control, or custody of a minor shall cause, allow, or procure such minor to solicit in or upon any public or private property.

Sec. 137.20. Registration.

- (A) No person shall solicit without a registration issued by the Chief of Police. Any person who has been registered shall keep a copy of the registration on his person at all times while soliciting and shall show it to any police officer upon request. No person whose registration has been revoked shall solicit for a period of two (2) years following the revocation.
- (B) The Chief of Police shall issue the registration, without fee, to any eligible person who presents himself or herself at the City of Dayton Safety Building, states his or her true name, presents a photo identification or signs a declaration under penalty of perjury that he or she has no such identification, and permits himself or herself to be photographed and fingerprinted.
- (C) A person is ineligible to register if, and only if, within the past five (5) years he or she (1) has pleaded guilty to or been convicted of two or more violations of any combination of Sections 137.15, 137.16, 137.17, 137.18, 137.19 or 137.20; (2) has had a registration revoked pursuant to (F) below; or (3) has pleaded guilty to or been convicted of two or more offenses under the laws of any jurisdiction which involve aggressive or intimidating behavior while soliciting or false or misleading representations while soliciting.
- (D) Upon receipt of an application for registration in accordance with (B) above, the Chief of Police shall issue a temporary registration valid for ten (10) days and shall determine eligibility for a regular registration before the temporary registration expires. An eligible applicant shall receive a regular registration upon determination of the applicant's eligibility. The regular registration shall expire one (1) year from the date of issuance. Along with the registration, the Chief of Police shall give the applicant a copy of this section.
- (E) No person shall make a false or misleading representation while applying for registration under this section.
- (F) Upon arrest for any violation of Section 137.15, 137.16, 137.17, 137.18, 137.19, or 137.20, a solicitor shall release to the arresting officer any registration issued under this section to the arrestee. The arrestee may apply to the Chief of Police for consecutive 30-day temporary registrations pending adjudication of the arrest case. The Chief of Police shall revoke any registration issued under this section to a person who has pleaded guilty to or been convicted of a violation of Sections 137.15, 137.16, 137.17, 137.18, or 137.19, or to a person convicted of two violations of Section 137.20.
- (G) Any applicant shall have the right to appeal the denial or revocation of registration by immediately requesting review by a court of competent jurisdiction or by appealing the decision to the Citizens Appeal Board. The appeal to the Citizens Appeal Board shall be taken by the applicant within five (5) days after receipt of the notice of denial by filing a written notice with the Chief of Police. The Citizens Appeal Board shall consider the appeal at the next regularly scheduled meeting.

following receipt by the Chief of Police of the notice of appeal. The Citizens Appeal Board shall direct the Chief of Police to issue the registration if the applicant has met the criteria set forth in this section for issuance of a registration. The applicant may appeal the decision of the Citizens Appeal Board to a court of competent jurisdiction.

Section 2. That existing Sections 137.14, 137.15, 137.16, 137.17, 137.19, and 137.20 of the Revised Code of General Ordinances are hereby repealed.

PASSED BY THE COMMISSION... JUNE 22, 2011

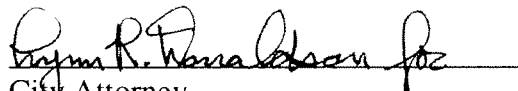
SIGNED BY THE MAYOR... JUNE 22, 2011


MAYOR OF THE CITY OF DAYTON, OHIO

ATTEST:


Clerk of the Commission

APPROVED AS TO FORM:


City Attorney